

CIARDI CIARDI & ASTIN
Albert A. Ciardi, Esquire
Adrienne N. Roth, Esquire
One Commerce Square
2005 Market Street, Suite 1930
Philadelphia, PA 19103
(215) 557-3550
(215) 557-3551 fax

Counsel to Defendant

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

INTERNATIONAL BROTHERHOOD :
OF ELECTRICAL WORKERS :
LOCAL UNION NO. 380 HEALTH :
& WELFARE FUND, et al. :

Plaintiff

v.

RITE WAY ELECTRIC :
CONSTRUCTION, INC., :

Defendant

CIVIL ACTION NO. 11-0691

ANSWER

Rite-Way Electric Construction, Inc. (“Rite Way”), by and through its undersigned counsel, Ciardi Ciardi & Astin, hereby submits this Answer (the “Answer”) to the Complaint (the “Complaint”) filed by the International Brotherhood of Electrical Workers Local Union No. 380 Health & Welfare Fund, et al. (“Plaintiffs”):

JURISDICTION

1. Admitted.
2. Denied. After reasonable investigation, Rite Way is without sufficient knowledge or information to form a belief as to the truth of the averments contained in paragraph 2 of the

Complaint since the means of proof are within the exclusive control of IBEW and thus, such averments are denied, deemed at issue and strict proof is demanded at the time of trial of this action.

VENUE

3. Admitted.

THE PARTIES

4. Denied. After reasonable investigation, Rite Way is without sufficient knowledge or information to form a belief as to the truth of the averments contained in paragraph 4 of the Complaint and thus, such averments are denied, deemed at issue and strict proof is demanded at the time of trial of this action.

5. Denied. After reasonable investigation, Rite Way is without sufficient knowledge or information to form a belief as to the truth of the averments contained in paragraph 5 of the Complaint and thus, such averments are denied, deemed at issue and strict proof is demanded at the time of trial of this action.

6. Denied. After reasonable investigation, Rite Way is without sufficient knowledge or information to form a belief as to the truth of the averments contained in paragraph 6 of the Complaint and thus, such averments are denied, deemed at issue and strict proof is demanded at the time of trial of this action.

7. Denied. After reasonable investigation, Rite Way is without sufficient knowledge or information to form a belief as to the truth of the averments contained in paragraph 7 of the Complaint and thus, such averments are denied, deemed at issue and strict proof is demanded at the time of trial of this action.

8. Denied. After reasonable investigation, Rite Way is without sufficient knowledge or information to form a belief as to the truth of the averments contained in paragraph 8 of the

Complaint and thus, such averments are denied, deemed at issue and strict proof is demanded at the time of trial of this action.

9. Denied. After reasonable investigation, Rite Way is without sufficient knowledge or information to form a belief as to the truth of the averments contained in paragraph 9 of the Complaint and thus, such averments are denied, deemed at issue and strict proof is demanded at the time of trial of this action.

10. Denied. After reasonable investigation, Rite Way is without sufficient knowledge or information to form a belief as to the truth of the averments contained in paragraph 10 of the Complaint and thus, such averments are denied, deemed at issue and strict proof is demanded at the time of trial of this action.

11. Denied. After reasonable investigation, Rite Way is without sufficient knowledge or information to form a belief as to the truth of the averments contained in paragraph 11 of the Complaint and thus, such averments are denied, deemed at issue and strict proof is demanded at the time of trial of this action.

12. Denied. After reasonable investigation, Rite Way is without sufficient knowledge or information to form a belief as to the truth of the averments contained in paragraph 12 of the Complaint and thus, such averments are denied, deemed at issue and strict proof is demanded at the time of trial of this action.

13. Admitted in part, denied in part. It is admitted only that the Defendant is a Pennsylvania corporation. The remaining allegations are denied. By way of further response, but not in derogation of the foregoing, Plaintiffs are stating a conclusion of law to which no response is required. If any response is required it is denied, deemed at issue and strict proof is demanded at the time of trial of this action.

COMMON FACTS

14. Denied. Plaintiffs are referencing a document, the truth of which speaks for itself to which no response is required. If any response is required it is denied, deemed at issue and strict proof is demanded at the time of trial of this action.

15. Denied. Plaintiffs are referencing documents, the truths of which speak for itself to which no response is required. If any response is required it is denied, deemed at issue and strict proof is demanded at the time of trial of this action.

16. Denied. Plaintiffs are referencing documents, the truths of which speak for itself to which no response is required. If any response is required it is denied, deemed at issue and strict proof is demanded at the time of trial of this action.

17. Denied. After reasonable investigation, Rite Way is without sufficient knowledge or information to form a belief as to the truth of the averments contained in paragraph 17 of the Complaint and thus, such averments are denied, deemed at issue and strict proof is demanded at the time of trial of this action.

18. Denied. After reasonable investigation, Rite Way is without sufficient knowledge or information to form a belief as to the truth of the averments contained in paragraph 18 of the Complaint and thus, such averments are denied, deemed at issue and strict proof is demanded at the time of trial of this action.

COUNT I

19. Paragraph 19 of the Complaint is an incorporation paragraph to which no response is required. However, Rite Way hereby incorporates their responses to paragraph 1 through 18 as if same were set forth fully herein.

20. Denied. After reasonable investigation, Rite Way is without sufficient knowledge or information to form a belief as to the truth of the averments contained in paragraph 20 of the Complaint and thus, such averments are denied, deemed at issue and strict proof is demanded at the time of trial of this action. By way of further response, but not in derogation of the foregoing, Plaintiffs are stating a conclusion of law to which no response is required. If any response is required it is denied, deemed at issue and strict proof is demanded at the time of trial of this action.

21. Denied. Plaintiffs are referencing a document, the truth of which speaks for itself to which no response is required. If any response is required it is denied, deemed at issue and strict proof is demanded at the time of trial of this action.

WHEREFORE, Rite Way demands judgment against Plaintiffs dismissing the Complaint with prejudice, together with costs of suit and such other relief as the Court deems equitable and just.

COUNT II

22. Paragraph 22 of the Complaint is an incorporation paragraph to which no response is required. However, Rite Way hereby incorporates their responses to paragraph 1 through 21 as if same were set forth fully herein.

23. Denied. After reasonable investigation, Rite Way is without sufficient knowledge or information to form a belief as to the truth of the averments contained in paragraph 23 of the Complaint and thus, such averments are denied, deemed at issue and strict proof is demanded at the time of trial of this action. By way of further response, but not in derogation of the foregoing, Plaintiffs are stating a conclusion of law to which no response is required. If any

response is required it is denied, deemed at issue and strict proof is demanded at the time of trial of this action.

24. Denied. Plaintiffs are stating a conclusion of law to which no response is required. If any response is required it is denied, deemed at issue and strict proof is demanded at the time of trial of this action.

WHEREFORE, Rite Way demands judgment against Plaintiffs dismissing the Complaint with prejudice, together with costs of suit and such other relief as the Court deems equitable and just.

COUNT III

25. Paragraph 25 of the Complaint is an incorporation paragraph to which no response is required. However, Rite Way hereby incorporates their responses to paragraph 1 through 24 as if same were set forth fully herein.

26. Denied. After reasonable investigation, Rite Way is without sufficient knowledge or information to form a belief as to the truth of the averments contained in paragraph 26 of the Complaint and thus, such averments are denied, deemed at issue and strict proof is demanded at the time of trial of this action.

27. Denied. Plaintiffs are referencing a document, the truth of which speaks for itself to which no response is required. If any response is required it is denied, deemed at issue and strict proof is demanded at the time of trial of this action.

28. Denied. After reasonable investigation, Rite Way is without sufficient knowledge or information to form a belief as to the truth of the averments contained in paragraph 28 of the Complaint and thus, such averments are denied, deemed at issue and strict proof is demanded at the time of trial of this action.

29. Denied. After reasonable investigation, Rite Way is without sufficient knowledge or information to form a belief as to the truth of the averments contained in paragraph 29 of the Complaint and thus, such averments are denied, deemed at issue and strict proof is demanded at the time of trial of this action.

30. Denied. After reasonable investigation, Rite Way is without sufficient knowledge or information to form a belief as to the truth of the averments contained in paragraph 30 of the Complaint and thus, such averments are denied, deemed at issue and strict proof is demanded at the time of trial of this action.

31. Denied. Plaintiffs are referencing documents, the truths of which speak for themselves to which no response is required. If any response is required it is denied, deemed at issue and strict proof is demanded at the time of trial of this action.

32. Denied. After reasonable investigation, Rite Way is without sufficient knowledge or information to form a belief as to the truth of the averments contained in paragraph 32 of the Complaint and thus, such averments are denied, deemed at issue and strict proof is demanded at the time of trial of this action.

33. Denied. Plaintiffs are stating a conclusion of law to which no response is required. If any response is required it is denied, deemed at issue and strict proof is demanded at the time of trial of this action.

WHEREFORE, Rite Way demands judgment against Plaintiffs dismissing the Complaint with prejudice, together with costs of suit and such other relief as the Court deems equitable and just.

COUNT IV

34. Paragraph 34 of the Complaint is an incorporation paragraph to which no response is required. However, Rite Way hereby incorporates their responses to paragraph 1 through 33 as if same were set forth fully herein.

35. Denied. Plaintiffs are stating a conclusion of law to which no response is required. If any response is required it is denied, deemed at issue and strict proof is demanded at the time of trial of this action.

36. Denied. After reasonable investigation, Rite Way is without sufficient knowledge or information to form a belief as to the truth of the averments contained in paragraph 36 of the Complaint and thus, such averments are denied, deemed at issue and strict proof is demanded at the time of trial of this action.

WHEREFORE, Rite Way demands judgment against Plaintiffs dismissing the Complaint with prejudice, together with costs of suit and such other relief as the Court deems equitable and just.

COUNT V

37. Paragraph 37 of the Complaint is an incorporation paragraph to which no response is required. However, Rite Way hereby incorporates their responses to paragraph 1 through 36 as if same were set forth fully herein.

38. Denied. Plaintiffs are stating a conclusion of law to which no response is required. If any response is required it is denied, deemed at issue and strict proof is demanded at the time of trial of this action.

39. Denied. After reasonable investigation, Rite Way is without sufficient knowledge or information to form a belief as to the truth of the averments contained in paragraph 39 of the

Complaint and thus, such averments are denied, deemed at issue and strict proof is demanded at the time of trial of this action.

40. Denied. Plaintiffs are stating a conclusion of law to which no response is required. If any response is required it is denied, deemed at issue and strict proof is demanded at the time of trial of this action.

WHEREFORE, Rite Way demands judgment against Plaintiffs dismissing the Complaint with prejudice, together with costs of suit and such other relief as the Court deems equitable and just.

COUNT VI

41. Paragraph 41 of the Complaint is an incorporation paragraph to which no response is required. However, Rite Way hereby incorporates their responses to paragraph 1 through 40 as if same were set forth fully herein.

42. Denied. Plaintiffs are stating a conclusion of law to which no response is required. If any response is required it is denied, deemed at issue and strict proof is demanded at the time of trial of this action.

43. Denied. After reasonable investigation, Rite Way is without sufficient knowledge or information to form a belief as to the truth of the averments contained in paragraph 43 of the Complaint and thus, such averments are denied, deemed at issue and strict proof is demanded at the time of trial of this action.

44. Denied. Plaintiffs are stating a conclusion of law to which no response is required. If any response is required it is denied, deemed at issue and strict proof is demanded at the time of trial of this action.

WHEREFORE, Rite Way demands judgment against Plaintiffs dismissing the Complaint with prejudice, together with costs of suit and such other relief as the Court deems equitable and just.

COUNT VII

45. There is no averment 45, therefore no response is required.

46. Paragraph 46 of the Complaint is an incorporation paragraph to which no response is required. However, Rite Way hereby incorporates their responses to paragraph 1 through 44 as if same were set forth fully herein.

47. Denied. Plaintiffs are stating a conclusion of law to which no response is required. If any response is required it is denied, deemed at issue and strict proof is demanded at the time of trial of this action.

48. Denied. Plaintiffs are stating a conclusion of law to which no response is required. If any response is required it is denied, deemed at issue and strict proof is demanded at the time of trial of this action.

49. Denied. Plaintiffs are stating a conclusion of law to which no response is required. If any response is required it is denied, deemed at issue and strict proof is demanded at the time of trial of this action.

50. Denied. After reasonable investigation, Rite Way is without sufficient knowledge or information to form a belief as to the truth of the averments contained in paragraph 50 of the Complaint and thus, such averments are denied, deemed at issue and strict proof is demanded at the time of trial of this action.

51. Denied. After reasonable investigation, Rite Way is without sufficient knowledge or information to form a belief as to the truth of the averments contained in paragraph 51 of the

Complaint and thus, such averments are denied, deemed at issue and strict proof is demanded at the time of trial of this action.

52. Denied. Plaintiffs are stating a conclusion of law to which no response is required. If any response is required it is denied, deemed at issue and strict proof is demanded at the time of trial of this action.

53. Denied. Plaintiffs are stating a conclusion of law to which no response is required. If any response is required it is denied, deemed at issue and strict proof is demanded at the time of trial of this action.

WHEREFORE, Rite Way demands judgment against Plaintiffs dismissing the Complaint with prejudice, together with costs of suit and such other relief as the Court deems equitable and just.

COUNT VIII

54. Paragraph 54 of the Complaint is an incorporation paragraph to which no response is required. However, Rite Way hereby incorporates their responses to paragraph 1 through 53 as if same were set forth fully herein.

55. Plaintiffs are stating a conclusion of law to which no response is required. If any response is required it is denied, deemed at issue and strict proof is demanded at the time of trial of this action.

56. Denied. After reasonable investigation, Rite Way is without sufficient knowledge or information to form a belief as to the truth of the averments contained in paragraph 50 of the Complaint and thus, such averments are denied, deemed at issue and strict proof is demanded at the time of trial of this action.

57. Denied. After reasonable investigation, Rite Way is without sufficient knowledge or information to form a belief as to the truth of the averments contained in paragraph 50 of the Complaint and thus, such averments are denied, deemed at issue and strict proof is demanded at the time of trial of this action.

WHEREFORE, Rite Way demands judgment against Plaintiffs dismissing the Complaint with prejudice, together with costs of suit and such other relief as the Court deems equitable and just.

AFFIRMATIVE DEFENSES

58. Defendant repeats and realleges all of its answers as if fully set forth herein at length.

59. Plaintiffs' claims are barred by their own inequitable conduct.

60. Plaintiffs' claims are barred by the affirmative defense of laches.

61. Plaintiffs' claims are barred by the affirmative defense of statute of frauds.

62. Plaintiffs' claims are barred by the affirmative defense of statute of limitations.

63. Plaintiffs' claims are barred by the affirmative defense of waiver.

64. Plaintiffs' claims are barred by their own bad faith.

65. Plaintiffs' claims are barred by the affirmative defense of *res judicata*.

66. Plaintiffs' claims are barred by the affirmative defense of collateral estoppel.

67. Plaintiffs' claims are barred by the affirmative defense of accord and satisfaction.

68. Plaintiffs' claims are barred by the affirmative defense of payment.

69. Plaintiffs' claims are barred by the affirmative defense of release.

70. Plaintiffs' claims are barred by the affirmative defense of failure of consideration.

Dated: February 21, 2011

CIARDI CIARDI & ASTIN

By: /s/ Adrienne N. Roth
Albert A. Ciardi, III, Esquire
Adrienne N. Roth, Esquire
One Commerce Square
2005 Market Street, Suite 1930
Philadelphia, PA 19103
Telephone: (215) 557-3550
Facsimile: (215) 557-3551

Attorneys for Rite Way